

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 16, 2003

Regulation Package #0902-23

CDSS MANUAL LETTER NO. CCL-03-04

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,
CHAPTER 1, GENERAL LICENSING REQUIREMENTS

Regulation Package #0902-23**Effective 7/16/03****Sections 80001, 80019, 80019.1, 80019.2, 80054, 80061, 80065, and 80066**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/GeneralLic_630.htm.

Currently, the Community Care Licensing Division (CCL) of the California Department of Social Services (CDSS) has regulations in place that apply to all community care facilities (Division 6) and to all child care centers (Division 12). The regulations amend the current CCL regulations by amending the applicable existing Definition; Criminal Record Clearance; Criminal Record Exemption; and Personnel Record Sections throughout Division 6, Chapters 1, 8, and 8.5 and Division 12, Chapters 1 and 3. The amendments are consistent with Health and Safety Code Sections 1522, 1522.1, 1568.09, 1569.17, 1569.871, and 1596.877, which were amended by Senate Bill (SB) 1984, Chapter 1267, Statutes of 1994. SB 1984 requires that the Department place into regulations existing policies and criteria, that have been used and refined for approximately 25 years, to evaluate criminal record exemption requests. Where necessary, regulations throughout all affected sections have been reworded and/or restructured for clarity and consistency.

The attached regulations contain the portion of the emergency regulations that pertain to General Licensing Requirements, Division 6, Chapter 1.

These regulations were adopted on an emergency basis effective July 16, 2003 and were considered at the Department's public hearing to be held on October 15, 2003.

FILING INSTRUCTIONS

All new revisions are indicated by a vertical line in the left margin. Revisions shown in graphic screen will continue to be shown in that manner until new revisions are done to those pages. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-03-03. The latest prior manual letter containing General Licensing Requirements regulation changes was Manual Letter No. CCL-02-11.

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CHAPTER 1 -- GENERAL LICENSING REQUIREMENTS**Article 1. GENERAL DEFINITIONS****80000 GENERAL****80000**

- (a) The general regulations in this chapter shall apply to all community care facilities regulated by Division 6, Chapters 2 through 7 and Chapter 9, except where specifically exempted. Additional or special requirements found in the corresponding chapters pertaining to each category shall apply only to such individual facility categories.
- (b) The licensee shall ensure compliance with all applicable law and regulations.
- (c) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.
- (d) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.
- (e) Repealed by Manual Letter No. CCL-91-26, effective 5/28/91.
- (f) Repealed by Manual Letter No. CCL-91-01, effective 1/9/91.
- (g) Repealed by Manual Letter No. CCL-91-01, effective 1/9/91.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 5453 and 5458, Welfare and Institutions Code; Sections 1501, 1502, 1502(a)(7), 1530 and 1531, Health and Safety Code.

80001 DEFINITIONS**80001**

The following general definitions shall apply wherever the terms are used throughout Division 6, Chapters 1 through 7 and Chapter 9, except where specifically noted otherwise. Additional definitions found at the beginning of each chapter in this division shall apply only to such specific facility category.

(a) (1) "Activities of Daily Living" (ADLs) mean the following six activities:

- (A) Bathing: Cleaning the body using a tub, shower or sponge bath, including getting a basin of water, managing faucets, getting in and out of tub or shower, reaching head and body parts for soaping, rinsing and drying.
- (B) Dressing: Putting on and taking off, fastening and unfastening garments and undergarments and special devices such as back or leg braces, corsets, elastic stockings/garments and artificial limbs or splints.
- (C) Toileting: Getting on and off a toilet or commode, emptying a commode, managing clothes, wiping and cleaning the body after toileting, and using and emptying a bedpan and urinal.
- (D) Transferring: Moving from one sitting or lying position to another sitting or lying position (e.g., from bed to or from a wheelchair, or sofa, coming to a standing position and/or repositioning to promote circulation and to prevent skin breakdown).
- (E) Continence: Ability to control bowel and bladder as well as to use ostomy and/or catheter receptacles, and to apply diapers and disposable barrier pads.
- (F) Eating: Reaching for, picking up, grasping a utensil and cup; getting food on a utensil; bringing food, utensil, and cup to mouth; manipulating food on plate; and cleaning face and hands as necessary following meal.

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See also the definition of "Client Who Relies Upon Others to Perform All Activities of Daily Living" in Section 80001c.(7).

HANDBOOK ENDS HERE

- (2) "Administrator" means the licensee, or the adult designated by the licensee to act in his/her behalf in the overall management of the facility.
- (3) "Adult" means a person who is 18 years of age or older.
- (4) "Adult Community Care Facility" (Adult CCF) means adult residential facilities (ARF), social rehabilitation facilities (SFR), adult day care facilities (ADCF) and adult day support centers (ADSC).

80001 **DEFINITIONS (Continued)****80001**

- (5) "Adult Day Care Facility" means any facility of any capacity which provides nonmedical care and supervision to adults on less than a 24-hour per day basis.
 - (6) "Adult Day Support Center" means a community based group program designed to meet the needs of functionally impaired adults through an individual plan of care in a structured comprehensive program that provides a variety of social and related support services in a protective setting on less than a 24-hour basis.
 - (7) "Adult Residential Facility" means any facility of any capacity which provides 24-hour a day nonmedical care and supervision to adults except elderly persons.
 - (8) "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for community care facility license, administrator certificate, or special permit.
 - (9) "Authorized Representative" means any person or entity authorized by law to act on behalf of any client. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.
 - (10) "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.
- | (b) (1) "Basic Rate" means the rate charged by a facility to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allocated for the recipient's personal and incidental needs.
- (2) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.
- | (c) (1) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.
- (2) "Care and Supervision" means any one or more of the following activities provided by a person or facility to meet the needs of the clients:
- (A) Assistance in dressing, grooming, bathing and other personal hygiene.
 - (B) Assistance with taking medication, as specified in Section 80075.
 - (C) Central storing and/or distribution of medications, as specified in Section 80075.

80001 DEFINITIONS (Continued)**80001**

- (D) Arrangement of and assistance with medical and dental care.
 - (E) Maintenance of house rules for the protection of clients.
 - (F) Supervision of client schedules and activities.
 - (G) Maintenance and/or supervision of client cash resources or property.
 - (H) Monitoring food intake or special diets.
 - (I) Providing basic services as defined in Section 80001b.(2).
- (3) "Cash Resources" means:
- (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental need allowances from funding sources including but not limited to SSI/SSP.
 - (E) Allowances paid to children.
 - (F) Any other similar resources as determined by the licensing agency.
- (4) "Certified administrator" means an administrator who has been issued a group home or adult residential facility certificate by the Department and whose certificate is current.
- (5) "Child" means a person who is under 18 years of age.
- (6) "Child Abuse Central Index" means the California Department of Justice maintained statewide, multi-jurisdictional, centralized index of child abuse investigation reports. These reports pertain to alleged incidents of physical abuse, sexual abuse, mental/emotional abuse and/or severe neglect. Each child protection agency (police, sheriff, county welfare and probation departments) is required by law to forward to the California Department of Justice a report of every child abuse incident it investigates, unless an incident is determined to be unfounded.
- (7) "Child Abuse Central Index Clearance" means that the California Department of Justice has conducted a name search of the index and the search did not result in a match or the search resulted in a match but the California Department of Social Services determined after an investigation that the allegation of child abuse or neglect was not substantiated.

80001 DEFINITIONS (Continued)**80001**

- | (8) "Child Care Center" means any facility of any capacity other than a family day care home as defined in Section 102352f.(1) in which less than 24-hour per day nonmedical supervision is provided for children in a group setting.
- | (9) "Client" means a child or adult who is receiving care and supervision in a community care facility. Client includes "resident" as used in the Community Care Facility Act.
- | (10) "Client Who Relies Upon Others To Perform All Activities of Daily Living" means a client who is unable to perform all six activities of daily living without physical assistance.

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(See also the definition of Activities of Daily Living in Section 80001a.(1).

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- | (11) Close friend. "Close friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.
- | (12) "Community Care Facility" means any facility, place or building where nonmedical care and supervision, as defined in Section 80001c.(2) are provided.
- | (13) "Community Treatment Facility" means any residential facility that provides mental health treatment services to children in a group setting which has the capacity to provide secure containment. The facility's program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.
- | (14) "Completed Application" means:
 - (A) The applicant has submitted and the licensing agency has received all required materials including: an approved fire clearance, if appropriate, from the State Fire Marshal; a criminal record clearance on the applicant and any other individuals specified in Section 80019.
 - (B) The licensing agency has completed a site visit to the facility.
- | (15) "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 et seq. of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.

80001 DEFINITIONS (Continued)**80001**

- (16) "Consultant" means a person professionally qualified by training or experience to provide expert information on a particular subject.
 - (17) "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property may include, but is not limited to the following:
 - (A) a Grant Deed showing ownership; or
 - (B) the lease agreement or rental agreement; or
 - (C) a court order or similar document which shows the authority to control the property pending outcome of a probate proceeding or an estate settlement.
 - (18) "Conviction" means:
 - (A) A criminal conviction in California; or
 - (B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.
 - (19) "Criminal Record Clearance" means an individual has a California Department of Justice clearance and an FBI clearance.
- (d) (1) "Day" means calendar day unless otherwise specified.
- (2) "Deficiency" means any failure to comply with any provision of the Community Care Facilities Act (Health and Safety Code, Section 1500 et seq.) and/or regulations adopted by the Department pursuant to the Act.
 - (3) "Delayed-Egress Device" means a special time-delay, egress-control device as specified in Health and Safety Code Sections 1531.1(b), (e), and 1569.699(a).

80001 DEFINITIONS (Continued)**80001**

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- (A) Health and Safety Code Section 1531.1(b) is paraphrased in pertinent part:

As used in this section, "delayed-egress device" means a device that precludes the use of exits for a predetermined period of time. These devices shall not delay any resident's departure from the facility for longer than 30 seconds.

- (B) Health and Safety Code Section 1531.1(e) is paraphrased in pertinent part:

The facility shall be subject to all fire and building codes, regulations, and standards applicable to residential care facilities for the elderly utilizing delayed egress devices and shall receive approval by the county or city fire department, the local fire prevention district, or the State Fire Marshal for the installed delayed egress devices.

- (C) Health and Safety Code Section 1569.699(a) is paraphrased in pertinent part:

When approved by the person responsible for enforcement as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer's disease or dementia, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements:

1. Automatic deactivation of the egress-control device upon activation of either the sprinkler system or the detection system.
2. Automatic deactivation of the egress-control device upon loss of electrical power to any one of the following: The egress-control device; the smoke-detection system; exit illumination as required by Section 1012 of the California Building Code.
3. Be capable of being deactivated by a signal from a switch located in an approved location.

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80001 DEFINITIONS (Continued)

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4. Initiate an irreversible process that will deactivate the egress-control device whenever a manual force of not more than 15 pounds (66.72N) is applied for two seconds to the panic bar or other door-latching hardware. The egress-control device shall deactivate within an approved time period not to exceed a total of 15 seconds, except that the person responsible for enforcement as described in Section 13146 may approve a delay not to exceed 30 seconds in residential care facilities, for the elderly serving patients with Alzheimer's disease. The time delay established for each egress-control device shall not be field adjustable.
5. Actuation of the panic bar or other door-latching hardware shall activate an audible signal at the door.
6. The unlatching shall not require more than one operation.
7. A sign shall be provided on the door located above and within 12 inches (305mm) of the panic bar or other door-latching hardware reading:

KEEP PUSHING. THIS DOOR WILL OPEN INSECONDS. ALARM
WILL SOUND.

Sign letters shall be at least one inch (25 mm) in height and shall have a stroke of not less than 1/8 inch (3.3 mm).
8. Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door.

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- (4) "Dementia" means a deterioration of intellectual function and other cognitive skills, leading to a decline in one's ability to perform activities of daily living.
- (5) "Department" is defined in Health and Safety Code Section 1502(b).

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- (A) Department means the California Department of Social Services.

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80001 DEFINITIONS (Continued)**80001**

- (6) "Department of Justice Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (7) "Developmental Disability" means a disability as defined in Welfare and Institutions Code Section 4512(a).

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- (A) Welfare and Institutions Code Section 4512(a) provides in part: "Developmental disability" means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely and constitutes a substantial handicap for such individual.

This term shall include mental retardation, cerebral palsy, epilepsy, and autism. This term shall also include handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature.

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- (8) "Dietitian" means a person who is a member of or registered by the American Dietetics Association.
- (9) "Director" is defined in Health and Safety Code Section 1502(c).

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- (A) Director means the director of the California Department of Social Services.

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- (e) (1) "Egress-Alert Device" means a wrist band or other device, that may be worn by a client or carried on a client's person that triggers a visual or auditory alarm when the client leaves the facility building or grounds.
- (2) "Elderly Person" means any person who is 60 years of age or older.
- (3) "Emergency Approval to Operate" (LIC 9117 4/93) (EAO) means a temporary approval to operate a facility for no more than 60 days pending the Department's decision on whether to approve or deny a provisional license.

80001 DEFINITIONS (Continued)**80001**

- (4) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license community care facilities.
- (5) "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the licensee's death.
- (6) "Exception" means a written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation(s) and which are based on the unique needs or circumstances of a specific client(s) or staff person(s). Exceptions are granted for particular client(s) or staff person(s) and are not transferable or applicable to other client(s), staff person(s), facilities or licensees.
- (7) "Exemption" means an exception to the requirements of Health and Safety Code Section 1522 and applicable regulations. Exemptions are not transferable.

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- (A) Health and Safety Code Section 1522(g) reads in part:

After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for a license, special permit, or certificate of approval pursuant to subdivision (d), or for employment, residence, or presence in a community care facility as specified in subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c).

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- (8) "Existing Facility" means any community care facility operating under a valid, unexpired license on the date this chapter becomes effective.
- (f) (1) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.

80001 DEFINITIONS (Continued)**80001**

- (g) (1) "Group Home" means any facility of any capacity which provides 24-hour care and supervision to children in a structured environment, with such services provided at least in part by staff employed by the licensee. The care and supervision provided by a group home shall be nonmedical except as permitted by Welfare and Institutions Code Section 17736(b).

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- (A) Welfare and Institutions Code Section 17736(b) reads in pertinent part:

Counties, regional centers and foster family agencies shall permit...the licensee and other personnel meeting the requirements of paragraphs (3), (5), and (6) of subdivision (c) of Section 17731 to provide, in a group home, specialized in-home health care to a child, as described in his or her individualized health care plan provided that the child was placed as of November 1, 1993.

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- (2) "Guardian" means a person appointed by the Superior Court pursuant to the provisions of Sections 1500 et seq. of the Probate Code to care for the person, or estate, or the person and estate of another.

- (h) (1) "Health Condition Relocation Order" means written notice by the Department to a licensee requiring the relocation of a client from a CCF because either the licensee is not providing adequate care for a client's health condition as required by the regulations or the client cannot be cared for within the limits of the license or the client requires in-patient care in a health facility or has a prohibited health condition, as specified in Section 80091.

- (2) "Home Economist" means a person who holds a baccalaureate degree in home economics with a specialization in either foods and nutrition or dietetics.

- (i) (1) "Infant" means a child under two years of age.

- (2) "Inhalation-assistive device" means any equipment that assists a client to breath, including, but not limited to, aerosol delivery devices, nebulizers, humidifiers, incentive spirometry devices, positive airway pressure devices, and positive expiratory pressure devices, and intermittent positive pressure breathing (IPPB) machines.

- (3) "Interdisciplinary Team" (IDT) means a team that assists the Department in evaluating the need for relocating a client of an ARF or an SRF when the client requests a review of the Department's Health Condition Relocation Order. This team consists of a nurse practitioner and a social worker, designated by the Department, with experience in the needs of the client population. Persons selected for an IDT shall not have been involved in the initial decision to issue a relocation order for the client in question.

80001 DEFINITIONS (Continued)**80001**

(j) (Reserved)

(k) (Reserved)

(l) (1) "License" means authorization to operate a community care facility and to provide care and supervision. The license is not transferable.

(2) "Licensed professional" means a person who is licensed in California to provide medical care or therapy. This includes physicians and surgeons, physician assistants, nurse practitioners, registered nurses, licensed vocational nurses, psychiatric technicians, physical therapists, occupational therapists and respiratory therapists, who are operating within his/her scope of practice.

(3) "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed community care facility.

(4) "Licensing Agency" means the State Department of Social Services or any state, county or other public agency authorized by the Department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.

(m) (1) "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

(2) "Mental Disorder" means any of the disorders set forth in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) of the American Psychiatric Association and a degree of functional impairment which renders a person eligible for the services enumerated under the Lanterman-Petris-Short Act, commencing with Section 5000 of the Welfare and Institutions Code.

(n) (1) "Needs and Services Plan" means a written plan that identifies the specific needs of an individual client, including those items specified in Section 80068.2, and delineates those services necessary to meet the client's identified needs.

(2) "Nonambulatory Person" means a person as defined in Health and Safety Code Section 13131.

(A) A person who uses postural supports as specified in Section 80072(a)(8) is deemed nonambulatory.

(B) A person is not deemed nonambulatory solely because he/she is deaf, blind, or prefers to use a mechanical aid.

80001 DEFINITIONS (Continued)

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- (C) Health and Safety Code Section 13131 provides:

"Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984 who are not developmentally disabled shall be made by the Director of Social Services or his or her designated representative.

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- (3) "Nutritionist" means a person who holds a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed as a nutritionist by a county health department.

| (o) (Reserved)

| (p) (1) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.

- (2) "Placement agency" is defined in Health and Safety Code Sections 1536.1 and 1569.47(a).

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- (A) Health and Safety Code Sections 1536.1 and 1569.47(a) are combined and paraphrased in pertinent part:

"Placement agency" means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and Regional Center for persons with developmental disabilities, which is engaged in finding homes or other places for the placement of persons of any age for temporary or permanent care.

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80001 DEFINITIONS (Continued)**80001**

- (3) "PRN Medication" (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.
- (4) "Provision" or "Provide" means whenever any regulation requires that provisions be made for or that there be provided any service, personnel, or other requirement, the licensee shall do so directly or present evidence to the licensing agency that the requirement has been met by some other means.
- (5) "Provisional License" means a license which is temporary, nonrenewable and issued for a period not to exceed twelve months. A provisional license is issued in accordance with the criteria specified in Section 80030.

| (q) (Reserved)

- | (r) (1) "Rehabilitation" means that period of time, together with any education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service, which assist an individual in reestablishing good character.
- | (2) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
- | (3) "Responsible person" means that individual or individuals, including a relative, health care surrogate decision maker, or placement agency, who assists the client or prospective client in placement or assumes varying degrees of responsibility for the client's well-being. A responsible person cannot act on behalf of a client unless authorized by law.
- | (s) (1) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of the clients of a community care facility.
- | (2) "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code Section 1522(c)(4), if the individual's criminal history meets specific criteria established by Department regulation.

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- (A) See Section 80051 and other applicable sections in Chapters 2 through 7 for examples of violations which commonly result in serious deficiencies.

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- | (3) "Small Family Home" means any residential facility in the licensee's family residence providing 24-hour a day care for six or fewer children who are mentally disordered, developmentally disabled or physically handicapped and who require special care and supervision as a result of such disabilities.
- | (4) "Social Rehabilitation Facility" means any facility which provides 24-hour-a-day nonmedical care and supervision in a group setting to adults recovering from mental illness who temporarily need assistance, guidance or counseling.
- | (5) "Social Worker" means a person who has a graduate degree from an accredited school of social work.
- | (6) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.
- | (7) "Substantial Compliance" means the absence of any serious deficiencies.
- | (8) "Substantiated Complaint" means a complaint which has been investigated by the licensing agency, and as a result, a violation of regulations has been found.
- | (t) (1) "Transfer Trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a client or resident from one facility to another.
- | (u) (1) "Universal Precautions" means an approach to infection control that treats all human blood and body fluids as if they are infectious. Generally, Universal Precautions consist of regular hand-washing after coming into contact with another person's body fluids (mucous, saliva, urine, etc.) and includes the use of gloves when handling blood or body fluids that contain blood. Specifically, Universal Precautions consist of the following four basic infection guidelines:

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| 80001 | DEFINITIONS (Continued) | 80001 |
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| (v) (Reserved)

| (w) (1) "Waiver" means a nontransferable written authorization issued by the licensing agency to use alternative means which meet the intent of a specific regulation and which are based on a facility-wide need or circumstance.

(2) Repealed by Manual Letter No. 98-05, effective 10/1/98.

| (x) (Reserved)

| (y) (Reserved)

| (z) (Reserved)

| NOTE: Authority cited: Sections 1502, 1522.41(j), 1524(e), 1530, and 1530.9, Health and Safety Code. Reference: Sections 1501, 1502, 1502(a)(7) and (8), 1502.5, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1524(e), 1525, 1525.5, 1526, 1527, 1530, 1530.5, 1531, 1531.1, 1533, 1534, 1536.1, 1537, 1538.5, 1550, 1551, 1556, 1569.699(a), 1797.196, and 11834.11, Health and Safety Code; Sections 5453, 5458, 11006.9, and 17736(a) and (b), Welfare and Institutions Code; and 29 CFR 1910.1030.

Article 2. LICENSE**80005 LICENSE REQUIRED****80005**

- (a) Unless a facility is exempt from licensure as specified in Section 80007, no adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct or maintain a community care facility, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1505, 1508, 1509, 1513 and 1531, Health and Safety Code.

80006 OPERATION WITHOUT A LICENSE**80006**

- (a) An unlicensed facility as defined in Section 80001u.(2), is in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code unless exempted from licensure pursuant to Section 80007.
- (b) If the facility is alleged to be in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code Section 1538.

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- (1) Health and Safety Code Section 1538(c) provides in part:

Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

HANDBOOK ENDS HERE

- (c) If the facility is operating without a license, the licensing agency shall issue a notice of operation in violation of law and shall refer the case for criminal prosecution and/or civil proceedings.
- (d) The licensing agency shall have the authority to issue an immediate civil penalty pursuant to Section 80058 and Section 1547 of the Health and Safety Code.

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

HANDBOOK CONTINUES

- (2) Section 1522(b) of the Health and Safety Code provides in part:

In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

- (A) Adults responsible for administration or direct supervision of staff.
- (B) Any person, other than a client, residing in the facility.
- (C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of 1338.5 or 1736.6, respectively, who is not employed, retained or contracted by the licensee, and who has been certified or recertified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who fall under this exemption shall provide one copy of his or her current certification, prior to providing care, to the adult community care facility. Nothing in this paragraph restricts the right of the department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.
- (D) Any staff person, volunteer, or employee who has contact with the clients.
- (E) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.
- (F) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

HANDBOOK ENDS HERE

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (b) The following persons are exempt from the requirement to submit fingerprints:
- (1) A medical professional, as defined by the Department in regulations, who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not employed, retained, or contracted by the licensee, if all of the following apply:
 - (A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.
 - (B) The individual is providing time-limited specialized clinical care or services.
 - (C) The individual is providing care or services within the individual's scope of practice.
 - (D) The individual is not a community care facility licensee or an employee of the facility.
 - (2) A third-party repair person, or similar retained contractor, if all of the following apply:
 - (A) The individual is hired for a defined, time-limited job.
 - (B) The individual is not left alone with clients.
 - (C) When clients are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.
 - (3) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client of the facility, and are in the facility at the request of that client or resident's legal decision maker.
 - (A) The exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (4) Clergy and other spiritual caregivers who are performing services in common areas of the residential care facility, or who are advising an individual client at the request of, or with the permission of, the client.
 - (A) This exemption shall not apply to a person who is a community care facility licensee or an employee of the facility.
- (5) Members of fraternal, service and similar organizations who conduct group activities for clients, if all of the following apply:
 - (A) Members are not left alone with the clients.
 - (B) Members do not transport clients off the facility premises.
 - (C) The same group does not conduct such activities more often than once a month.
- (6) The following persons in small family homes:
 - (A) Adult friends and family of the licensee who come into the home to visit, for a length of time no longer than one month, provided they are not left alone with the children.
 - (B) Parents of a child's friends when the child is visiting the friend's home and the friend, foster parent or both are also present.

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (7) The following persons in adult day care and adult day support centers unless contraindicated by the client's individualized program plan (IPP), or needs and service plan:
- (A) A spouse, significant other, relative, close friend of a client.
 - (B) An attendant or facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained or contracted by the licensee.
 - (C) The exemptions in Section 80019(b)(8)(A) or (B) apply only if the person is visiting the client or providing direct care and supervision to the client.
 - (D) A volunteer, if all of the following apply:
 - 1. The volunteer is supervised by the licensee or a facility employee with a criminal record clearance or exemption.
 - 2. The volunteer is never left alone with clients.
 - 3. The volunteer does not provide any client assistance with dressing, grooming, bathing or personal hygiene other than washing of hands.
- (8) The following persons in adult residential and social rehabilitation facilities unless contraindicated by the client's individualized program plan (IPP), or needs and service plan:
- (A) A spouse, significant other, relative, or close friend of a client., or the attendant or facilitator who is not employed, retained or contracted by the licensee for a client with a developmental disability, as long as the person is visiting the resident or providing direct care and supervision to that client only.
 - (B) An attendant or facilitator for a client with a developmental disability if the attendant or facilitator is not employed, retained or contracted by the licensee.
 - (C) The exemptions in Section 80019(b)(9)(A) or (B) apply only if the person is visiting the client or providing direct care and supervision to the client.
- (9) Nothing in this paragraph shall prevent a licensee from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has client contact.

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (c) Prior to the Department issuing a license, the applicant, administrator and any adult other than a client, residing in the facility shall obtain a California criminal record clearance or exemption as specified in Health and Safety Code Section 1522(a)(5).

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- (1) Health and Safety Code Section 1522(a)(5) provides in part:

An applicant and any other person specified in subdivision (b) of the Health and Safety Code Section 1522 shall submit a second set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) of Health and Safety Code Section 1522 meet all of the conditions for licensure, except the receipt of the Federal Bureau of Investigation's criminal history information for the applicant or any of the persons described in subdivision (b) of Health and Safety Code Section 1522, the Department may issue a license if the applicant and each person described in subdivision (b) of Health and Safety Code Section 1522 has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the Department determines that the licensee or person described in subdivision (b) of Health and Safety Code Section 1522 has a criminal record, the license may be revoked pursuant to Health and Safety Code Section 1550. The Department may also suspend the license pending as administrative hearing pursuant to Health and Safety Code Section 1550.5.

HANDBOOK ENDS HERE

- (d) All individuals subject to criminal record review shall be fingerprinted and sign a Criminal Record Statement (LIC 508 [Rev. 1/03]) under penalty of perjury.

- (1) A person signing the LIC 508 must:

- (A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section 80019(i).
- (B) If convicted of a crime other than a minor traffic violation, provide information regarding the conviction.

- (2) The licensee shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with the requirements of Section 80019(e), prior to the individual's employment, residence, or initial presence in the community care facility.

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (A) Fingerprints shall be submitted to the California Department of Justice by the licensee, or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the Department.
- (B) A licensee or an applicant for a license may not submit, or enable another to submit under the licensee's or the applicant's authority, the fingerprints or any person who does not, or whom the licensee or applicant reasonably believes will not reside, provide care and supervision to, or have contact with clients at the licensee's or applicant's facility.
 - 1. If the Department determines that the licensee or applicant has violated Section 80019(d)(1)(B), the Department may immediately cease processing criminal record and Child Abuse Central Index clearances for the facility until the Department determines that the licensee or applicant is in compliance with this section or until a disciplinary proceeding is completed.
- (e) Prior to employment, residence or initial presence in a licensed facility, all individuals subject to a criminal record review shall:
 - (1) Obtain a Department of Justice clearance or a criminal record exemption as required by the Department or
 - (2) Request a transfer of a criminal record clearance as specified in Section 80019(f) or
 - (3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 80019.1(r), unless, upon request for the transfer, the Department permits the individual to be employed, reside or be present at the facility.
- (f) A licensee or applicant for a license may request a transfer of a criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility by providing the following documents to the Department:
 - (1) A signed Criminal Background Clearance Transfer Request, LIC 9182 (Rev. 4/02).
 - (2) A copy of the individual's:
 - (A) Driver's license, or
 - (B) Valid identification card issued by the Department of Motor Vehicles, or
 - (C) Valid photo identification issued by another state or the United States government if the individual is not a California resident.

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (3) Any other documentation required by the Department [e.g., Criminal Record Statement - LIC 508, (Rev. 1/03) or for Foster Family Homes, Small Family Homes and Certified Family Homes an LIC 508D (Rev. 1/03) which are incorporated by reference, and job description].

HANDBOOK BEGINS HERE

- (4) Health and Safety Code Section 1522(h) provides:

- (A) The California Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearances to be transferred.

HANDBOOK ENDS HERE

- (g) Violation of Section 80019(e) will result in a citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars (\$100) per violation by the Department.
- (1) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1522.
- (h) Violation of Section 80019(e) may result in a denial of the license application or suspension and/or revocation of the license.
- (i) If the criminal record transcript of any of the individuals specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was less than \$300, and an exemption pursuant to Section 80019.1(a) has not been granted, the Department shall take the following actions:
- (1) For initial applicants, denial of the application.
- (2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.
- (3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1558, and deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.
- (4) For convicted individuals residing in the facility, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside at the facility.

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80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (j) The Department shall notify the licensee and the affected individual associated with the facility, in concurrent, separate letters, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.

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- (1) Section 1522(c)(3) of the Health and Safety Code provides in part:

- (A) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the California Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the California Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The California Department of Social Services may subsequently grant an exemption pursuant to subdivision (g). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the California Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (g). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.
- (B) The department may issue an exemption on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

- (2) Section 1522(e) of the Health and Safety Code provides in part:

The California Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident or arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

HANDBOOK CONTINUES

80019 CRIMINAL RECORD CLEARANCE (Continued)

80019

HANDBOOK CONTINUES

(3) Section 243.4 of the Penal Code provides in part:

- (A) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.
- (B) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(4) Section 273a of the Penal Code provides:

- (A) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.
- (B) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(5) Section 273d of the Penal Code provides:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4 or 6 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000) or by both.

HANDBOOK CONTINUES

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

HANDBOOK CONTINUES

(6) Section 368 of the Penal Code provides:

- (A) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, or four years.
- (B) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health may be endangered, is guilty of a misdemeanor.

(7) Section 1522(c) of the Health and Safety Code provides in part:

If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the California Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (f). The California Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

HANDBOOK ENDS HERE

80019 CRIMINAL RECORD CLEARANCE (Continued)**80019**

- (k) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section 80066.
- (l) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of volunteers that require fingerprinting and non-client adults residing in the facility.
 - (1) Documentation shall be available for inspection by the Department.
- (m) Any individual who is required to obtain or has obtained a criminal record clearance or exemption as a condition of association with, or licensure of, a facility shall report to the Department by telephone any subsequent arrest, conviction, or parole or probation violation within 48 hours of the event.
 - (1) Confirmation of the telephone report must be made in writing to the Department within seven calendar days. The written report shall include the following:
 - (A) The law enforcement agency and court involved;
 - (B) A detailed description of the events leading to the arrest, conviction, or parole or probation violation;
 - (C) The individual's current and pending legal involvement; and
 - (D) The individual's current address and phone number.
- (n) The Department may seek verification of an individual's criminal record as reported to the Department from any member of the public or affected individual.
 - (1) Upon obtaining confirmation of the offense, the Department shall proceed as if this criminal record information was provided by the California Department of Justice.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1503.5, 1505, 1508, 1522, 1531 1533, 1538, 1540, 1540.1, 1541, 1547, 1549, and 14564, Health and Safety Code.

80019.1 CRIMINAL RECORD EXEMPTION**80019.1**

- (a) The Department will notify a licensee to act immediately to remove from the facility or bar from entering the facility any person described in Sections 80019.1(a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice.
- (1) Any person who has been convicted of, or is awaiting trial for, a sex offense against a minor;
 - (2) Any person who has been convicted of a felony;
 - (3) Any person who has been convicted of an offense specified in Sections 243.4, 273a, 273d, 273g, or 368 of the Penal Code or any other crime specified in Health and Safety Code Section 1522(c)(3);
 - (4) Any person who has been convicted of any crime specified below:
 - (A) Battery
 - (B) Shooting at Inhabited Dwelling
 - (C) Corporal Injury on Spouse/Cohabitant
 - (D) Discharging Firearm with Gross Negligence
 - (E) Exhibiting Weapon/Firearm
 - (F) Threat to Commit a Crime Resulting in Gross Bodily Injury or Death
 - (G) Criminal Threat to Harm or Injure Another Person
 - (H) Cruelty to Animals
 - (I) Willful Harm or Injury to Child; or
 - (5) Any other person ordered to be removed by the Department.
- (b) In addition to the requirements of Section 80019.1(a), the licensee must return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the facility.

80019.1 CRIMINAL RECORD CLEARANCE (Continued)**80019.1**

- (1) Confirmation must be made on either a Removal Confirmation – Exemption Needed, LIC 300A (Rev. 12/02), Removal Confirmation - Denial, LIC 300B (Rev. 12/02), Removal Confirmation - Rescinded, LIC 300C (Rev. 12/02), or Removal Confirmation – Nonexemptible, LIC 300D (Rev. 12/02).
- (c) After a review of the criminal record transcript, the Department may grant an exemption if:
- (1) The applicant/licensee requests an exemption in writing for himself or herself, or
 - (2) The applicant/licensee requests an exemption in writing for an individual associated with the facility, or
 - (3) The applicant/licensee chooses not to seek an exemption on the affected individual's behalf, the affected individual requests an individual exemption in writing, and
 - (4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment, presence, or residence in a licensed facility.
- (d) To request a criminal record exemption, individuals must submit information that indicates that he/she meets the requirements of Section 80019.1(c)(4). The Department will send a written notice to the licensee or license applicant that lists the information that must be submitted to request a criminal record exemption. The information must be submitted within thirty (30) days of the date of the Department's notice.
- (1) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department to process the exemption request, pursuant to Section 80019.1(e).
 - (2) If the individual who requests a criminal record exemption is an employee or resident other than a spouse or a dependent family member and does not submit the information requested in the Department's written notice within 30 days of the date of the notice, the Department may cease processing the exemption request and close the case.
 - (3) If the individual who requests a criminal record exemption is an applicant, licensee, spouse or dependent family member and does not submit the information requested in the Department's written notice within 30 days of the date of the notice, the Department may deny the exemption request.
- (e) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:

80019.1 CRIMINAL RECORD CLEARANCE (Continued)**80019.1**

- (1) The nature of the crime including, but not limited to, whether it involved violence or a threat of violence to others.
- (2) Period of time since the crime was committed and number of offenses.
- (3) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
- (4) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
- (5) Granting by the Governor of a full and unconditional pardon.
- (6) Character references.
 - (A) All character references shall be on a Reference Request form (LIC 301E – Exemptions [Rev. 9/02]).
- (7) A certificate of rehabilitation from a superior court.
- (8) Evidence of honesty and truthfulness as revealed in exemption application documents.
 - (A) Documents include, but are not limited to:
 1. A Criminal Record Statement (LIC 508, [Rev. 1/03]) or for Foster Family Homes, Small Family Homes and Certified Family Homes an LIC 508D [Rev. 1.03]) and
 2. The individual's written statement/explanation of the conviction and the circumstances about the arrest.
- (9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations with the Department.
- (f) The Department shall also consider the following factors in evaluating a request for an exemption:
 - (1) Facility and type of association.
 - (2) The individual's age at the time the crime was committed.

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80019.1 CRIMINAL RECORD CLEARANCE (Continued)**80019.1**

- | (g) The Department may deny an exemption request if:
 - (1) The licensee and/or the affected individual fails to provide documents requested by the Department, or
 - (2) The licensee and/or the affected individual fails to cooperate with the Department in the exemption process.
- | (h) The reasons for any exemption granted or denied shall be in writing and kept by the Department.
- | (i) The Department has the authority to grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed facility.
- | (j) It shall be conclusive evidence that the individual is not of such good character as to justify issuance of an exemption if the individual:
 - (1) Makes a knowingly false or misleading statement regarding:
 - (A) Material relevant to their application for a criminal record clearance or exemption,
 - (B) His or her criminal record clearance or exemption status to obtain employment or permission to be present in a licensed facility, after the Department has ordered that they be excluded from any or all licensed facilities, or
 - (C) His or her criminal record clearance or exemption status in order to obtain a position with duties that are prohibited to him/her by a conditional exemption; or
 - (2) Is on probation or parole.
 - (A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section 80019.1(j)(2).
 - (B) Section 80019.1(j)(2) does not apply to Certified Family Homes.

80019.1 CRIMINAL RECORD CLEARANCE (Continued)**80019.1**

- (k) The Department shall consider granting a criminal record exemption if the individual's criminal history meets all of the applicable criteria specified in Sections 80019.1(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 80019.1(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated or the reports regarding the underlying offense, presents a risk of harm or violence.
- (1) The individual has been convicted of one nonviolent misdemeanor, and one year has lapsed since completing the most recent period of incarceration or probation.
 - (2) The individual has been convicted of two or more nonviolent misdemeanors and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (3) The individual has been convicted of one or more violent misdemeanors and 15 consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (4) The individual has been convicted of one nonviolent felony and four consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (5) The individual has been convicted of two or more nonviolent felonies and ten consecutive years have lapsed since completing the most recent period of incarceration, probation or parole, whichever is latest.
 - (6) The individual has not been convicted of a violent felony.
 - (7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Sections 80019.1(k)(1) through (5) above shall begin from the last date of conviction(s).
- (l) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 80019.1(k)(1) through (6).
- (m) The Department shall not grant an exemption if the individual has a conviction for any offense specified in Section 1522(g)(1) of the Health and Safety Code.

80019.1 CRIMINAL RECORD CLEARANCE (Continued)**80019.1**

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Health and Safety Code Section 1522(g)(1) provides that no exemption shall be granted if an individual has been convicted of any of the following offenses:

- (1) Penal Code Sections 136.1 and 186.22 – Gang related/Intimidation of witnesses or victims.
- (2) Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.
- (3) Penal Code Section 203 – Any mayhem.
- (4) Penal Code Section 206 - Felony torture.
- (5) Penal Code Sections 207, 208, 209, 209.5, 210 – Kidnapping.
- (6) Penal Code Sections 211, 212.5, 213, 214 – Any robbery.
- (7) Penal Code Section 215 – Carjacking.
- (8) Penal Code Section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation.
- (9) Penal Code Section 243.4 – Sexual battery.
- (10) Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.
- (11) Penal Code Section 262(a)(1) or (4) – Rape of a spouse.
- (12) Penal Code Section 264.1 – Rape in concert.
- (13) Penal Code Section 266 – Enticing a minor into prostitution.
- (14) Penal Code Section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud.
- (15) Penal Code Section 266h(b) – Pimping a minor.
- (16) Penal Code Section 266i(b) – Pandering a minor.

HANDBOOK CONTINUES

80019.1 CRIMINAL RECORD CLEARANCE (Continued)

80019.1

HANDBOOK CONTINUES

- (17) Penal Code Section 266j – Providing a minor under 16 for lewd or lascivious act.
- (18) Penal Code Section 267 – Abduction for prostitution.
- (19) Penal Code Section 269 – Aggravated assault of a child.
- (20) Penal Code Section 272 – Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).
- (21) Penal Code Section 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] – Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.
- (22) Penal Code Section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.
- (23) Penal Code Section 285 – Incest.
- (24) Penal Code Section 286 – Sodomy.
- (25) Penal Code Section 288 – Lewd or lascivious act upon a child under 14.
- (26) Penal Code Section 288a – Oral copulation.
- (27) Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.
- (28) Penal Code Section 288.5(a) – Continuous sexual abuse of a child.
- (29) Penal Code Section 289 – Genital or anal penetration or abuse by any foreign or unknown object.
- (30) Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.
- (31) Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.
- (32) Penal Code Section 311.3 – Sexual exploitation of a child.

HANDBOOK CONTINUES

80019.1 CRIMINAL RECORD CLEARANCE (Continued)

80019.1

HANDBOOK CONTINUES

- (33) Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.
- (34) Penal Code Section 311.10 – Advertising or distributing child pornography.
- (35) Penal Code Section 311.11 – Possessing child pornography.
- (36) Penal Code Section 314 paragraphs 1 or 2 – Lewd or obscene exposure of private parts.
- (37) Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, reservoir or public water supply.
- (38) Penal Code Section 368 – Elder or dependent adult abuse.
- (39) Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm.
- (40) Penal Code Section 451(a) or (b) – Arson.
- (41) Penal Code Section 460(a) – First degree burglary if it is charged and proved that a non-accomplice was present in the residence during the burglary.
- (42) Penal Code Sections 186.22 and 518 – Gang related/Extortion.
- (43) Penal Code Section 647.6 or prior to 1988 former Section 647a – Annoy or molest a child under 18.
- (44) Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.
- (45) Penal Code Sections 664/187 – Any attempted murder.
- (46) * Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.
- (47) * Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.

HANDBOOK CONTINUES

80019.1 CRIMINAL RECORD CLEARANCE (Continued)**80019.1****HANDBOOK CONTINUES**

- (48) Penal Code Section 667.5(c)(13) – Enhancement for violation of Penal Code Section 12308, 12309 or 12310 – Exploding or igniting or attempting to explode or ignite any destructive device or explosive with intent to commit murder.
- (49) Penal Code Section 667.5(c)(14) - Any kidnapping – Penal Code Sections 207, 208, 209, 209.5 and 210.
- (50) Penal Code Section 667.5(c)(22) - Any violation of Penal Code Section 12022.53 – Enhancement for listed felonies where use of a firearm.
- (51) Penal Code Section 667.5(c)(23) – Use of weapon of mass destruction.
- (52) Business and Professions Code Section 729 – Felony sexual exploitation by a physician, psychotherapist, counselor, etc.

* See Health and Safety Code Section 1522(g)(1) for exception.

HANDBOOK ENDS HERE

- (n) The Department shall consider granting a simplified criminal record exemption only if the individual has the criminal history profile outlined in Sections 80019.1(n)(1) through (4) below:
 - (1) The individual does not have a demonstrated pattern of criminal activity;
 - (2) The individual has no more than one conviction;
 - (3) The conviction is a misdemeanor and is a crime that is nonviolent and does not pose a risk of harm to an individual; and
 - (4) It has been at least five consecutive years since the completion of the most recent period of incarceration or supervised probation.
- (o) At the Department's discretion, an individual who is otherwise eligible for a simplified exemption may be required to go through the standard exemption process if the Department determines such action will help to protect the health and safety of clients.
- (p) If the Department denies or cannot grant a criminal record exemption the Department shall:
 - (1) For initial applicants, deny the application.

80019.1 CRIMINAL RECORD CLEARANCE (Continued)**80019.1**

- (2) For current licensees, the Department may institute an administrative action, including, but not limited to, revocation of the license.
- (3) For current employees, exclude the affected individual pursuant to Health and Safety Code Section 1558, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.
- (4) For individuals residing in the facility or the licensee, exclude the affected individual pursuant to Health and Safety Code Section 1558, deny the application or revoke the license, if the individual continues to provide services and/or reside at the facility.
- (q) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section 80019.1(m). If a request for an exemption has been denied based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life.
 - (1) If the Department determines during the review of an exemption request, that the individual was denied an exemption for a conviction of a crime for which an exemption may be granted within the preceding two years, the Department shall cease any further review of the request until two years have elapsed from the date of the denial. In cases where the individual requested a hearing on an exemption denial, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department upholding the denial. In cases where the individual submitted a petition for reinstatement or reduction in penalty pursuant to Government Code Section 11522 that was denied, the Department shall cease review of the request for an exemption until two years from the effective date of the decision and order of the Department denying the petition.
 - (2) An exclusion order based solely upon a denied exemption shall remain in effect and the individual shall not be employed in or present in a licensed facility or certified home, unless either a petition or an exemption is granted.
 - (3) If an individual who has previously been denied an exemption re-applies after the relevant time period described in Section 80019.1(q)(1) above, the Department may, in its discretion, grant or deny the subsequent request for an exemption.

80019.1 CRIMINAL RECORD CLEARANCE (Continued)**80019.1**

- (4) If an individual submits a petition pursuant to Government Code Section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a facility, along with all information required of an individual requesting a criminal record exemption as provided in Section 80019.1. If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition.
- (r) A licensee or applicant for a license may request a transfer of a criminal record exemption from one state licensed facility to another by providing the following documents to the Department:
- (1) A signed Criminal Record Exemption Transfer Request, LIC 9188 (Rev. 3/02).
 - (2) A copy of the individual's:
 - (A) Driver's license, or
 - (B) Valid identification card issued by the Department of Motor Vehicles, or
 - (C) Valid photo identification issued by another state or the United States Government if the individual is not a California resident.
 - (3) Any other documentation required by the Department (e.g., Criminal Record Statement - LIC 508, [Rev.1/03] or for Foster Family Homes, Small Family Homes and Certified Family Homes an LIC 508D [Rev. 1/03] and job description).
- (s) The Department may consider factors including, but not limited to, the following in determining whether or not to approve an exemption transfer:
- (1) The basis on which the Department granted the exemption;
 - (2) The nature and frequency of client contact in the new position;
 - (3) The category of facility where the individual wishes to transfer;
 - (4) The type of clients in the facility where the individual wishes to transfer;

80019.1 CRIMINAL RECORD CLEARANCE (Continued)**80019.1**

- (5) Whether the exemption was appropriately evaluated and granted in accordance with existing exemption laws or regulations; or
 - (6) Whether the exemption meets current exemption laws or regulations.
- (t) If the Department denies the individual's request to transfer a criminal record exemption, the Department shall provide the individual and the licensee with written notification that states the Department's decision and informs the affected individual of their right to an administrative hearing to contest the Department's decision.
- (u) At the Department's discretion, an exemption may be rescinded if it is determined that:
 - (1) The exemption was granted in error, or
 - (2) The exemption does not meet current exemption laws or regulations, or
 - (3) The conviction for which an exemption was granted subsequently becomes non-exemptible by law.
- (v) The Department may rescind an individual's criminal record exemption if the Department obtains evidence showing that the individual engaged in conduct that is inconsistent with the good character requirement of a criminal record exemption, as evidenced by factors including, but not limited to, the following:
 - (1) Violations of licensing laws or regulations;
 - (2) Any conduct by the individual that indicates that the individual may pose a risk to the health and safety of any individual who is or may be a client;
 - (3) Nondisclosure of a conviction or evidence of lack of rehabilitation that the individual failed to disclose to the Department, even if it occurred before the exemption was issued; or
 - (4) The individual is convicted of a subsequent crime.
- (w) If the Department rescinds an exemption the Department shall:
 - (1) Notify the licensee and the affected individual in writing; and
 - (2) Initiate the appropriate administrative action.

80019.1 CRIMINAL RECORD CLEARANCE (Continued)**80019.1**

- (x) If the Department learns that an individual with a criminal record clearance or exemption has been convicted of a subsequent crime, the Department, at its sole discretion, may immediately initiate the appropriate administrative action to protect the health and safety of clients.

NOTE: Authority cited: Sections 1522 and 1530, Health and Safety Code. Reference: Sections 1522, 1531, and 14564, Health and Safety Code.

80019.2 CHILD ABUSE CENTRAL INDEX**80019.2**

- (a) Prior to issuing a license to care for children, the Department shall conduct a Child Abuse Central Index (CACI) review pursuant to Health and Safety Code Section 1522.1 and Penal Code Section 11170(b)(3). The Department shall check the CACI for the applicant(s), and all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1522(b) and shall approve or deny a facility license, employment, residence or presence in the facility based on the results of the review.
- (1) The applicant shall submit the Child Abuse Central Index check (LIC 198A [3/99] which is incorporated by reference, for state licensed facilities and LIC 198 [4/99] which is incorporated by reference, for county licensed facilities) for all individuals required to be checked, directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 80019(c).
- (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80091(e) or Section 80019.1(f).

80019.2 CHILD ABUSE CENTRAL INDEX (Continued)**80019.2**

- (2) The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protection agency that investigated the child abuse report. The Department shall not deny a license based upon a report from the CACI unless the Department substantiates the allegation of child abuse.
- (b) Subsequent to licensure, all individuals subject to a criminal record review, pursuant to Health and Safety Code Section 1522(b), shall complete a Child Abuse Central Index check (LIC 198A), prior to employment, residence or initial presence in the facility that cares for children.
- (1) The licensee shall submit the Child Abuse Central Index checks (LIC 198A), directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 80019(d).
 - (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 80019(e) or Section 80019.1(f).
- (2) The Department shall check the CACI pursuant to Penal Code Section 11170(b)(3), and shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.
- (3) The Department shall investigate any subsequent reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not revoke a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1521, 1522, 1522.04, 1531, and 14564, Health and Safety Code.

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| 80020 | FIRE CLEARANCE | 80020 |
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- (a) All facilities shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.

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- (1) The request for fire clearance shall be made through and maintained by the licensing agency.

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- (b) The applicant shall notify the licensing agency if the facility plans to admit any of the following categories of clients so that an appropriate fire clearance, approved by the city or county, fire department, the district providing fire protection services, or the State Fire Marshal, can be obtained prior to the acceptance of such clients:

- (1) Persons 65 years of age and over.
- (2) Persons who are nonambulatory, as defined in Section 80001n.(1).

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- (A) Persons who use postural supports pursuant to Section 80072(a)(8) are nonambulatory.

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NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1528 and 1531, Health and Safety Code.

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| 80021 | WATER SUPPLY CLEARANCE | 80021 |
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- (a) All community care facilities where water for human consumption is from a private source shall meet the following requirements:
- (1) As a condition of initial licensure, the applicant shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the State Department of Health Services or a licensed commercial laboratory.

80053 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE**80053**

- (a) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.
 - (1) At a minimum, a follow-up visit shall be conducted within ten working days following the dates of corrections specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required.
 - (2) No penalty shall be assessed unless a follow-up visit is conducted as specified in (a) and (a)(1) above.
- (b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.
- (c) A notice of penalty shall be in writing and shall include:
 - (1) The amount of penalty assessed, and the date the payment is due.
 - (2) The name and address of the agency responsible for collection of the penalty.
- (d) When an immediate penalty has been assessed pursuant to Sections 80054(c), (d), (e) and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

NOTE: Authority cited: Section 1530 and 1548, Health and Safety Code. Reference: Sections 1533, 1534 and 1548, Health and Safety Code.

80054 PENALTIES**80054**

- (a) A penalty of \$50 per day, per cited violation, shall be assessed for serious deficiencies that are not corrected by the date specified in the notice of deficiency, up to a maximum of \$150 per day.
- (b) Notwithstanding Section 80054(a) above, an immediate penalty of \$100 per cited violation shall be assessed if any individual required to be fingerprinted under Health and Safety Code Section 1522(b) has not obtained a Department of Justice clearance or a criminal record exemption, requested a transfer of a criminal record clearance or requested and be approved for a transfer of an exemption as specified in Section 80019(e) prior to the individual's employment, residence or initial presence in the facility.
 - (1) Violation of Section 80019(e) will result in a citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars (\$100) per violation by the Department.

80054 PENALTIES (Continued)**80054**

- (A) The Department may assess civil penalties for continued violations as permitted by Health and Safety Code Section 1522.
- (2) Progressive civil penalties specified in Sections 80054(d) and (e) below shall not apply.
- (c) Notwithstanding Section 80054(a) above, an immediate penalty of \$150 per day shall be assessed for any of the following:
 - (1) Sickness, injury or death of a client has occurred as a result of the deficiency.
- (d) When a facility is cited for a deficiency and violates the same regulation subsection within a 12-month period, the facility shall be cited and an immediate penalty assessment of \$150 per cited violation shall be assessed for one day only. Thereafter a penalty of \$50 per day, per cited violation, shall be assessed until the deficiency is corrected.
- (e) When a facility, that was cited for a deficiency subject to the immediate penalty assessment in Section 80054(d) above, violates the same regulation subsection within a 12-month period of the last violation, the facility shall be cited and an immediate penalty of \$150 per cited violation shall be assessed for one day only. Thereafter, a penalty of \$150 per day, per cited violation, shall be assessed until the deficiency is corrected.
 - (1) For purposes of Sections 80054(d) and (e) above, a regulation subsection is the regulation denoted by a lower-case letter after the main regulation number.

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An example of the same regulation subsections are Sections 87218(a)(2) and 87218(a)(5). Sections 87218(a) and 87218(b) are not the same regulation subsection.

HANDBOOK ENDS HERE

- (f) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated.
 - (1) Immediate penalty assessment as specified in (c), (d) and (e) above, shall begin on the day the deficiency is cited.
- (g) If a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction was made.

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| 80054 | PENALTIES (Continued) | 80054 |
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- (1) If the deficiency has not been corrected, civil penalties shall continue to accrue from the date of the original citation.
- (2) If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.
- (h) If necessary, a site visit shall be made immediately or within five working days to confirm deficiency has been corrected.
- (i) If an immediate civil penalty is assessed, and the deficiency is corrected on the same day, the penalty shall still be assessed for that day.
- (j) Unless otherwise ordered by the Department all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.
- (k) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (j) above.

| NOTE: Authority cited: Sections 1530 and 1548, Health and Safety Code. Reference: Section 1522, 1534 and 1548, Health and Safety Code.

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| 80055 | ADMINISTRATIVE REVIEW | 80055 |
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- (a) A licensee or his/her representative shall have the right to request a review of a notice of deficiency and/or notice of penalty within 10 working days of receipt of such notice(s).
 - (1) If the deficiency has not been corrected, civil penalties shall continue to accrue during the review process.
- (b) The review shall be conducted by a higher level staff person than the evaluator who issued the notice(s).
- (c) If the reviewer determines that a notice of deficiency or notice of penalty was not issued or assessed in accordance with applicable statutes and regulations of the Department, or that other circumstances existed, he/she shall have the authority to amend or dismiss the notice.
- (d) The reviewer shall have the authority to extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented to support a request for extension.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1534, Health and Safety Code.

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Article 6. CONTINUING REQUIREMENTS**80061 REPORTING REQUIREMENTS****80061**

- (a) Each licensee or applicant shall furnish to the licensing agency reports as required by the Department, including, but not limited to, those specified in this section.
- (b) Upon the occurrence, during the operation of the facility, of any of the events specified in (1) below, a report shall be made to the licensing agency within the agency's next working day during its normal business hours. In addition, a written report containing the information specified in (2) below shall be submitted to the licensing agency within seven days following the occurrence of such event.
 - (1) Events reported shall include the following:
 - (A) Death of any client from any cause.
 - (B) In a residential facility, death of any client as a result or injury, abuse, or other than natural causes, regardless of where the death occurred. This includes a death that occurred outside the facility such as at a day program, workshop, job, hospital, en route to or from a hospital, or visiting away from the facility.
 - 1. The licensee shall obtain a certified copy of the client's death certificate as soon as it is available, maintain it in the client's file, and shall send a copy to the Department as soon as it is obtained.
 - 2. For Regional Center clients, the licensee shall also send a copy of the death certificate to the Regional Center.
 - (C) In an adult CCF, the use of an Automated External Defibrillator.
 - (D) Any injury to any client which requires medical treatment.
 - (E) Any unusual incident or client absence which threatens the physical or emotional health or safety of any client.
 - (F) Any suspected physical or psychological abuse of any client.
 - (G) Epidemic outbreaks.
 - (H) Poisonings.
 - (I) Catastrophes.
 - (J) Fires or explosions which occur in or on the premises.

80061 REPORTING REQUIREMENTS (Continued)**80061**

- (2) Information provided shall include the following:
 - (A) Client's name, age, sex, and date of admission.
 - (B) Date and nature of event.
 - (C) Attending physician's name, findings, and treatment, if any.
 - (D) Disposition of the case.
- (c) The items below shall be reported to the licensing agency within 10 working days following the occurrence.
 - (1) The organizational changes specified in Section 80034(a)(2).
 - (2) Any change in the licensee's or applicant's mailing address.
 - (3) Any change of the chief executive officer of a corporation or association.
 - (A) Such notification shall include the new chief executive officer's name and address.
 - (B) Fingerprints shall be submitted as specified in Section 80019(d).
 - (4) Any changes in the plan of operation which affect the services to clients.
- (d) Repealed by Manual Letter No. CCL-98-05, effective 10/1/98.
- (e) The items specified in (b)(1)(A) through (H) above shall also be reported to the client's authorized representative, if any.
- (f) The items specified in (b)(1)(E) through (G) above shall also be reported to the local health officer when appropriate pursuant to Title 17, California Administrative Code, Sections 2500, 2502 and 2503.

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- (1) Title 17, California Administrative Code, Section 2500 requires:

It shall be the duty of every physician, practitioner, dentist, coroner, every superintendent or manager of a dispensary, hospital, clinic, or any other person knowing of or in attendance on a case or suspected case of any of the following diseases or conditions, to notify the local health authority immediately. A standard type report form has been adopted and is available for this purpose.

HANDBOOK CONTINUES

80065 PERSONNEL REQUIREMENTS (Continued)**80065**

- (e) The licensee shall provide for direct supervision of clients during participation in or presence at potentially dangerous activities or areas in the facility.
 - (1) An adult other than a client shall be present at all times while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim.
 - (2) Adults who supervise while clients are using a pool or other body of water from which rescue requires the rescuer's ability to swim, shall have a valid water safety certificate.
- (f) All personnel shall be given on-the-job training or shall have related experience which provides knowledge of and skill in the following areas, as appropriate to the job assigned and as evidenced by safe and effective job performance.
 - (1) Principles of nutrition, food preparation and storage and menu planning.
 - (2) Housekeeping and sanitation principles.
 - (3) Provision of client care and supervision, including communication.
 - (4) Assistance with prescribed medications which are self-administered.
 - (5) Recognition of early signs of illness and the need for professional assistance.
 - (6) Availability of community services and resources.
 - (7) For adult CCFs, Universal Precautions as defined in Section 80001(u)(1).
 - (A) Training in Universal Precautions may be provided in the facility or staff may attend training provided by a local health facility, county health department, or other local training resources.
- (g) All personnel, including the licensee, administrator and volunteers, shall be in good health, and shall be physically, mentally, and occupationally capable of performing assigned tasks.
 - (1) Except as specified in (3) below, good physical health shall be verified by a health screening, including a test for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or seven days after employment or licensure.

80065 PERSONNEL REQUIREMENTS (Continued)**80065**

- (2) A health screening report signed by the person performing such screening shall be made on each person specified above, and shall indicate the following:
 - (A) The person's physical qualifications to perform the duties to be assigned.
 - (B) The presence of any health condition that would create a hazard to the person, clients or other staff members.
- (3) The good physical health of each volunteer who works in the facility shall be verified by:
 - (A) A statement signed by each volunteer affirming that he/she is in good health.
 - (B) A test for tuberculosis performed not more than one year prior to or seven days after initial presence in the facility.
- (h) Personnel with evidence of physical illness that poses a threat to the health and safety of clients shall be relieved of their duties.
- (i) Prior to employment or initial presence in the facility, all employees and volunteers subject to a criminal record review shall:
 - (1) Obtain a Department of Justice clearance or a criminal record exemption as required by law or Department regulations or
 - (2) Request a transfer of a criminal record clearance as specified in Section 80019(f) or
 - (3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 80019.1(r), unless, upon request for the transfer, the Department permits the individual to be employed, reside or be present at the facility.

80065 PERSONNEL REQUIREMENTS (Continued)**80065**

- (j) Clients shall not be used as substitutes for required staff but shall be permitted, as a voluntary part of their program of activities, to participate in household duties and other tasks suited to the client's needs and abilities.
 - (1) Such duties and tasks shall be specified in the client's needs and services plan as specified in Chapters 2, 4, 5 and 6.
- (k) When regular staff members are absent, there shall be coverage by personnel capable of performing assigned tasks as evidenced by on-the-job performance.
- (l) Personnel shall provide for the care and safety of persons without physical or verbal abuse, exploitation or prejudice.
- (m) All personnel shall be instructed to report observations or evidence of violations of any of the personal rights specified in Section 80072 and/or any of the personal rights provisions of Chapters 2 through 7.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 5453 and 5458, Welfare and Institutions Code; Sections 1501, 1502(a)(7), 1522, 1531 and 1562, Health and Safety Code; and Section 42001, Vehicle Code.

80066 PERSONNEL RECORDS**80066**

- (a) Personnel records shall be maintained on the licensee, administrator and each employee and shall contain the following information:
 - (1) Employee's full name.
 - (2) Driver's license number if the employee is to transport clients.
 - (3) Date of employment.
 - (4) A statement signed by the employee that he/she is at least 18 years of age.
 - (5) Home address and phone number.
 - (6) Documentation of the educational background, training and/or experience specified in Chapters 2 through 7.

80066 PERSONNEL RECORDS (Continued)**80066**

- (7) Past experience, including types of employment and former employers.
- (8) Duties of the employee.
- (9) Termination date if no longer employed by the facility.
- (10) A health screening specified in Section 80065(g).
- (11) Tuberculosis test documents as specified in Section 80065(g).
- (12) For employees that are required to be fingerprinted pursuant to Section 80019:
 - (A) A signed statement regarding their criminal record history.
 - (B) Documentation of either a criminal record clearance or exemption.
- (b) Personnel records shall be maintained for all volunteers and shall contain the following:
 - (1) A health statement as specified in Section 80065(g)(3).
 - (2) Tuberculosis test documents as specified in Section 80065(g).
 - (3) For volunteers that are required to be fingerprinted pursuant to Section 80019:
 - (A) A signed statement regarding their criminal record history.
 - (B) Documentation of either a criminal record clearance or exemption.
- (c) All personnel records shall be retained for at least three years following termination of employment.
- (d) All personnel records shall be maintained at the facility site and shall be available to the licensing agency for review.
 - (1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the licensing agency at the facility site upon request.
- (e) In all cases, personnel records shall document the hours actually worked.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.